

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

THOMAS R. HENNE,

CV. 05-1545-HA

Plaintiff,

ORDER

v.

OREGON DEPARTMENT OF  
CORRECTIONS, et al.,

Defendants.

HAGGERTY, District Judge.

This prisoner civil rights action comes before the court on plaintiff's Motion for Temporary Restraining Order. Plaintiff alleges that he is suffering harassment and retaliation based on the filing of this lawsuit. Plaintiff's allegations of harassment and retaliation are principally comprised of: (1) his inability to trade food with other inmates; (2) the prison staff's decision not to allow him to have salad dressing on one occasion; and (3) his transfer from a privileged housing unit to the prison's general population housing. Plaintiff asks the court to enjoin the

harassment and retaliation, and to order his return to his desired housing complex.

Pursuant to Fed. R. Civ. P. 65(b)(2), the court may issue a temporary restraining order without notice to the adverse party or that party's attorney only if the applicant "certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required."

In this case, plaintiff has not made any effort to provide notice to defendants that he seeks a temporary restraining order. Plaintiff asks the court to excuse him from the notice requirement because his legal rights will continue to suffer while waiting for the State's attorney to respond to his Motion. Given the nature of the allegations plaintiff raises in his Motion, the court finds that he should not be excused from the notice requirement of Fed. R. Civ. P. 65(b)(2). Accordingly, plaintiff's Motion for Temporary Restraining Order is denied, without prejudice. The court will reconsider the Motion after counsel for defendants has been served.

#### CONCLUSION

Plaintiff's Motion for Temporary Restraining Order [25] is DENIED, without prejudice.

The Clerk of the Court is DIRECTED to send a courtesy copy of plaintiff's Motion for Temporary Restraining Order to counsel for defendants. Defendants shall respond to the Motion within 10 days

of the date of this Order, and the court shall take the Motion [25] under advisement at that time.

IT IS SO ORDERED.

DATED this 7 day of July, 2006.

/s/Ancer L.Haggerty  
Ancer L. Haggerty  
United States District Judge